

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CHARLES H. KAMINKSI, *et al.*,

Plaintiffs,

v.

Case No.: 15-cv-12810
Honorable Gershwin A. Drain

BRAD L. COULTER, *et al.*,

Defendants.

**ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY
JUDGMENT [#120] AND DISMISSING ACTION**

On August 15, 2017, this Court entered an Order Granting the Plaintiffs' Motion to Adjourn Hearings and Denying the Plaintiffs' Motion for Class Certification without prejudice. The Court's August 15, 2017 Order also stayed the instant matter so that the Sixth Circuit Court of Appeals could rule on the Plaintiffs' petition for en banc hearing. The Sixth Circuit Court of Appeals ultimately rejected the Plaintiffs' petition for en banc hearing and the mandate issued on October 10, 2017.

As this Court noted in its August 15, 2017 Order, the Sixth Circuit Court of Appeals' July 25, 2017 Opinion and Order, the law of the case doctrine and the mandate preclude further consideration of the Plaintiffs' Contracts, Due Process

and Takings Clause claims.

“Pursuant to the law-of-the-case doctrine, and the complementary ‘mandate rule,’ upon remand the trial court is bound to ‘proceed in accordance with the mandate and the law of the case as established by the appellate court.’” *Caldwell v. City of Louisville*, 200 F. App’x 430, 433 (6th Cir. Sept. 15, 2006)(quoting *Westside Mothers v. Olszewski*, 454 F.3d 532, 538-39 (6th Cir. 2006)). The district court must “implement both the letter and the spirit of the appellate court’s mandate, taking into account the appellate court’s opinion and the circumstances it embraces.” *Id.* (internal quotation marks omitted).

The Sixth Circuit Court of Appeals’ July 25, 2017 Opinion and Order concluded that Plaintiffs “br[ought] the wrong kind of suit[,]” because an “alleged Contracts Clause violation cannot give rise to a § 1983 claim” *Kaminski v. Coulter*, 865 F.3d 339, 347 (6th Cir. 2017). The Sixth Circuit Court of Appeals also opined that the Plaintiffs’ Due Process and Takings Clause claims “fail[] on their merits[.]” *Id.* at 348-49. Thus, Plaintiffs’ Contracts, Due Process and Takings Clause claims fail on the merits. As such, the remaining Defendants, Brad. L. Coulter, the City of Lincoln Park, Christopher Dardzinski, Mario DeSanto, Lisa Griggs, Thomas Murphy, Elliot Zelenak, Frank Vaslo and Mark Kandes, are entitled to judgment in their favor.

Accordingly, this cause of action is dismissed with judgment in favor of all

of the Defendants on all of Plaintiffs' claims.

SO ORDERED.

Dated: October 31, 2017

/s/Gershwin A. Drain
GERSHWIN A. DRAIN
United States District Judge

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on
October 31, 2017, by electronic and/or ordinary mail.

/s/ Tanya Bankston
Deputy Clerk